

Foreign Relations Authorization, FY2003: An Overview

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Summary

Congress is required by law to authorize the spending of appropriations for the State Department and foreign policy activities every two years. The authorization process dovetails with the annual appropriation process for the Department of State (within the Commerce, Justice, State and Related Agency appropriation) and foreign policy/foreign aid activities (within the foreign operations appropriation).

While Congress intended the legislation would serve as authorization for both FY2002 and FY2003, the delay in getting it through Congress led to a waiver of the authorization requirement for FY2002 (P.L. 107-77, Section 405); the law that was eventually enacted (P.L. 107-228) authorizes foreign relations spending only for FY2003.

The Foreign Relations Authorization Act for Fiscal Year 2003 (H.R. 1646/S. 1401/S. 1803) authorizes, among other things, the Department of State's operations and programs, arms sales to Taiwan, the U.S. embassy to be located in Jerusalem, UNESCO, and U.S. assistance to Colombia. Both H.R. 1646 and S. 1803 contain authorization for security assistance, as well.

Congressman Hyde introduced H.R. 1646 on April 27, 2001. The House International Relations Committee reported the bill May 4, 2001 (H.Rept. 107-57). The House passed it, as amended, on May 16, 2001 by a recorded vote of 352-73.

The Senate Foreign Relations Committee passed its foreign relations authorization bill (S. 1401) by unanimous voice vote on August 1, 2001. The Committee filed its report (S.Rept. 107-60) on September 4, 2001. With a crowded schedule after the September 11th attacks, the Senate did not take up the authorization bill. Rather, within the context of the Commerce, Justice, State (CJS) appropriation (section 405, P.L. 107-77), Congress waived the requirement for authorization prior to the State Department spending its appropriations as is required by law.

On May 1, 2002, the Senate amended its version of H.R. 1646 by substituting S. 1803 (the Security Assistance Act) language. Throughout the 2002 summer, House and Senate staff met to iron out the differences of the two sides' authorization bills. As a result of staff-level meetings, several provisions that had been in House and Senate bills (such as global warming and international family planning measures) were not included in the conference report that was voted on and passed by conferees.

The House and Senate conferees met for the first time on September 18, 2002 and filed the conference report September 23rd (H.Rept 107-671). The House passed the conference report by voice vote on September 25th; the Senate passed it by unanimous consent on September 26, 2002. The President signed it into law (P.L. 107-228) on September 30, 2002.

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Most Recent Developments

The Foreign Relations Authorization Act for Fiscal Years 2003 (H.R. 1646/S. 1401/S. 1803) authorizes the Department of State's operations and programs through FY2003, and establishes U.S. policy on: Colombia assistance, a U.S. embassy in Jerusalem, U.S. human rights policy, UNESCO, and arms sales to Taiwan, among other measures. Congressman Hyde introduced H.R. 1646 on April 27, 2001. The House passed the bill, as amended, on May 16, 2001 by a recorded vote of 352-73. The Senate Foreign Relations Committee passed its version of the authorization legislation by a unanimous voice vote on August 1st. The Committee filed its report (S.Rept. 107-60) on September 4, 2001. Conferees met on September 18, 2002 and filed the conference report (H.Rept. 107-671) on September 23rd. The House passed the conference report by voice vote on September 25th and the Senate passed it by unanimous consent the next day. President Bush signed the legislation into law (P.L. 107-228) on September 30, 2002.

Background

The foreign relations authorization legislation provides authority for the State Department and related foreign policy agencies to conduct foreign policy activities and programs in the coming year. It authorizes foreign policy programs and enacts changes in U.S. foreign policy. It also serves as a vehicle for Congress to influence executive branch management of foreign policy. Since Congress has not passed a foreign *assistance* authorization bill since 1985, activities such as authorization for the U.S. Agency for International Development (USAID), as well as U.S. economic, development, and military assistance are also typically included in the foreign authorization legislation.

By law, authorization of foreign policy agencies and programs is required prior to expenditure of Foreign Operations and State Department appropriations. In effect, the authorizing legislation sets spending ceilings for the foreign policy agency appropriations. (See **Table 1** below.) Prior to 1995, Congress had reauthorized U.S. government foreign policy agencies and activities in the foreign relations authorization legislation every two years until 1994 (P.L. 103-236, April 30, 1994). P.L. 107-228 is the first stand-alone foreign relations authorization bill that Congress has passed since 1994. In the intervening years, Congress waived the requirement or included authorization in appropriation laws. (See *State Department Authorization History* in the Appendix.)

Key Issues—Foreign Relations

The foreign relations authorization legislation typically provides authority for State Department spending for such activities as salaries and other operating expenses, passport and visa processing, embassy activities, as well as foreign service benefits. In addition, the legislation often becomes a convenient vehicle for numerous foreign policy-related issues, such as nonproliferation, human rights, international family planning policy, and Foreign Service issues. Congress can influence U.S. foreign policy toward specific regions or countries as well. Some key issues in the authorization legislation of the 107th Congress follow.

Arms Sales to Taiwan¹

In the 107th Congress, some Members called for ensuring regular and high-level consultations with Taiwan and a role for Congress in determining arms sales to Taiwan, after President Bush announced on April 24, 2001, that he would drop the annual arms talks process with Taiwan in favor of normal, routine considerations on an “as-needed” basis. The Foreign Relations Authorization Act for FY2002 and FY2003 (H.R. 1646), passed in the House on May 16, 2001, contained provisions on arms sales to Taiwan. First, H.R. 1646 included authority (in Section 851) for the President to sell the four Kidd-class destroyers to Taiwan, not as Foreign Military Sales, but Excess Defense Articles (EDA), under Section 21 of the Arms Export Control Act (AECA). Second, in the House International Relations Committee, Representative Brad Sherman proposed an amendment (Section 813) to require that Taiwan be treated as the “equivalent of a major non-NATO ally” for defense transfers under the AECA or the Foreign Assistance Act, while the language stopped short of designating Taiwan as a major non-NATO ally. According to the Member’s office, the provision would show tangible support for Taiwan’s defense, provide it with status similar to that given to Australia, New Zealand, and Argentina, offer it the “right of first refusal” for EDA, and treat it with enhanced status for anti-terrorism assistance, cooperative research and development projects in the defense area, and expedited review in satellite licensing. Some observers said that authority has existed under the Taiwan Relations Act (TRA) to provide defense assistance to Taiwan. Third, Representative Gary Ackerman introduced an amendment (Section 814) to require the President to consult annually with Congress and Taiwan about the availability of defense articles and services for Taiwan. The consultations with Taiwan would occur at a level not less than that of the Vice Chief of General Staff and in Washington, D.C. – as has been the case.

The Senate’s Foreign Relations Authorization Act (S. 1401), introduced and placed on the calendar on September 4, 2001, sought to require the Administration to brief Congress every three months on discussions between any executive agency and Taiwan on arms sales (Section 603). The Committee on Foreign Relations said that it wished to ensure that consultations between the executive branch and Congress on arms sales to Taiwan and the congressional role are maintained (S.Rept. 107-60). On May 1, 2002, the Senate incorporated S. 1803 in H.R. 1646 and passed it. The Senate’s version (Section 701) sought to authorize the President to sell the four Kidd-class destroyers to Taiwan.

Enacted as P.L. 107-228, the Foreign Relations Authorization Act for FY2003 authorizes – at the Bush Administration’s request – the Department of State and other departments or agencies (including the Department of Defense) to detail employees to the American Institute in Taiwan (AIT) (Section 326); requires that Taiwan be “treated as though it were designated a major non-NATO ally” (Section 1206); requires consultations with Congress on U.S. security assistance to Taiwan every 180 days (Section 1263); and authorizes the sale to Taiwan of the four Kidd-class destroyers (Section 1701). Section 326, amending the Foreign Service Act of 1980, has significant implications for the assignment of government officials to AIT, including active-duty military personnel for the first time since 1979. (AIT, the non-profit corporation that Congress set up under the TRA, has handled the relationship with Taiwan in the absence of diplomatic relations since 1979. Employees have been separated from government service for a period of time in the name of “unofficial” relations, but personnel issues have affected AIT.)

In signing the bill into law on September 30, 2002, President Bush issued a statement that criticized Section 1206. He said that “Section 1206 could be misconstrued to imply a change in

¹ Written by Shirley Kan, Specialist in National Security Policy, Foreign Affairs, Defense, and Trade Division.

the ‘one China’ policy of the United States when, in fact, that U.S. policy remains unchanged. To the extent that this section could be read to purport to change United States policy, it impermissibly interferes with the President’s constitutional authority to conduct the Nation’s foreign affairs.”

There are other relevant legislation. The National Defense Authorization Act for FY2002 (P.L. 107-107), enacted December 28, 2001, authorized the President to transfer (by sale) the four Kidd-class destroyers to Taiwan (Section 1011), under Section 21 of the AECA. The Foreign Operations Appropriations Act for FY2002 (P.L. 107-115), enacted on January 10, 2002, brought unprecedented close coordination between the executive and legislative branches on arms sales to Taiwan. Section 573 required the Departments of State and Defense to provide detailed briefings (not specified as classified) to congressional committees (including those on appropriations) within 90 days of enactment and not later than every 120 days thereafter during FY2002. The briefings were required to report on U.S.-Taiwan discussions on potential sales of defense articles or services to Taiwan. The Senate’s Foreign Operations Appropriations bill for FY2003 (S. 2779), introduced and placed on the calendar on July 24, 2002, would continue into FY2003 the requirement for briefings on arms sales to Taiwan (Section 569).

See CRS Report RL30957, *Taiwan: Major U.S. Arms Sales Since 1990*, by Shirley Kan.

China-U.S. Policy²

P.L. 107-228 contains a number of provisions relating to the People’s Republic of China (PRC). Section 232 of the authorization denies visas to any Chinese national who has been involved directly in the coercive transplanting of human organs or tissues. The more substantive and detailed China-related provisions deal with U.S. policy and practices toward Tibet and Taiwan.

Tibet

The “Tibetan Policy Act of 2002” begins at Section 611, Subtitle B. The stated purpose of the language is “to support the aspirations of the Tibetan people to safeguard their distinct identity.” It calls on the U.S. government to encourage China to enter into dialogue with the Dalai Lama or his representatives to negotiate a settlement; work to ensure compliance with any negotiated settlement; and report annually to Congress on the status of such dialogue. The Act also expands the responsibilities of the Congressional-Executive Commission on the People’s Republic of China (CECPRC) to include monitoring and reporting on the status of dialogue between the Chinese government and the Dalai Lama. In addition, the measure requires U.S. representatives in international financial institutions to support only those economic development projects on the Tibetan Plateau that meet certain principles, including: that they have been preceded by an assessment of the needs of the Tibetan people through field visits and interviews, as well as by cultural and environmental impact statements; that they foster Tibetan self-sufficiency; that Tibetans actively participate in all project phases; that the development agency use Tibetan as the working language of the project; and that Tibetan culture and traditions be respected, among other principles.

The law requires the Secretary of State to make a “best effort” to open a U.S. consular office in Lhasa; requires that Tibetan language training be made available to U.S. foreign service officers; calls for the U.S. Ambassador to China to meet with and ask for the release of the 11th Panchen Lama, now thought to be held incognito by the Chinese government; and calls for the release of political prisoners in Tibet. The bill provides statutory authority for the position of Special

² Prepared by Kerry Dumbaugh, Specialist in China Policy, Foreign Affairs, Defense, and Trade Division.

Coordinator for Tibetan Affairs (as opposed to current practice of a presidentially appointed position). Finally, the bill authorizes \$500,000 in FY2003 for the “Ngawang Choephel Exchange Programs” (the former “programs of educational and cultural exchange between the United States and the people of Tibet”); and separate entries for Tibet in various mandated reporting requirements. These Tibet provisions are similar to (although not as extensive as) provisions in separate legislation—The Tibetan Policy Act of 2001 (H.R. 1779 and S. 852)—introduced by Representative Tom Lantos and Senator Dianne Feinstein, respectively.

Taiwan

P.L. 107-228 contains provisions on Taiwan that would make changes in current U.S. practice and have an affect on U.S.-China relations. Provisions dealing with Taiwan are particularly sensitive to Beijing because of the latter’s view that the bill’s language seeks to make U.S. security relations with Taiwan more formal and routinized. Among other things, the Act contains a provision allowing the Secretary of State to detail a State Department employee to the American Institute in Taiwan (AIT) while remaining on the U.S. government payroll if he determines such a detail is in the U.S. national interest. (The United States does not have official relations with Taiwan, and all bilateral contacts since 1979 have been handled through AIT.) The measure also includes House language providing that, for the purposes of U.S. arms sales, Taiwan should be treated as the equivalent of a major non-NATO ally; and that the President consult with appropriate congressional committees every six months about Taiwan’s request for defense articles and services. The Act also contains sense-of-Congress resolutions that the Taiwan situation be resolved peacefully and with the consent of the people on Taiwan; and that the American flag be publicly displayed at U.S. offices in Taiwan as at other U.S. embassies, consulates, and official residences around the world.

For more information, see CRS Issue Brief IB98018, *U.S.-China Policy*.

Colombia Assistance³

The House International Relations Committee reported out H.R. 1646 (Foreign Relations Authorization for FY2002-FY2003) on May 4, 2001, with four reporting requirements on Colombia and a prohibition on the issuance of visas to illegal armed groups in Colombia. This bill was passed by the House on May 16, 2001, without additions to, or modifications of, conditions on counter-narcotics and other assistance to Colombia and regional neighbors under the Andean Regional Initiative. The required reports relate to the elimination of Colombian opium, the effects of Plan Colombia on Ecuador, alternative development and resettlement programs, and the transfer of counter-narcotics activities by contracted U.S. businesses to Colombian nationals, especially Colombian anti-narcotics police.

The Senate Foreign Relations Committee reported out S. 1401 (the Senate version of the Foreign Relations Authorization for FY2002-FY2003) on September 4, 2001, with a provision in section 606, similar to a provision in the House version of the bill, requiring the Secretary of State to submit to appropriate congressional committees within 60 days after enactment a report that outlines a comprehensive strategy to eradicate all opium at its source in Colombia. In subsequent action, the Senate approved H.R. 1646 on May 1, 2002, after incorporating the text of a Senate measure on security assistance (S. 1803) approved in December 2001.

³ Prepared by K. Larry Storrs (Specialist in Latin American Affairs) and Nina M. Serafino (Specialist in International Security Affairs), Foreign Affairs, Defense, and Trade Division.

The conference report on H.R. 1646 (H.Rept. 107-671) filed on September 23, 2002, contains two sections on Colombia, with requirements for reports that are similar to the requirements in the House-passed version of the bill, except that the required reports in Section 694 are broadened to include the activities of the Department of Defense, and the subsequent reports are to be made yearly rather than semi-annually. The prohibition on the issuance of visas to illegal armed groups in Colombia was dropped on grounds that it was duplicative of existing authorities, particularly authorities in the Immigration and Nationality Act (INA). The conference report on H.R. 1646 was approved by the House by voice vote on September 25, 2002, and was approved by the Senate by unanimous consent on September 26, 2002. It was signed into law (P.L. 107-228) on September 30, 2002.

Section 694 (a) of the legislation requires the Secretary of State to submit within 180 days of enactment, and not later than April 1 of each year thereafter, a report on State or Defense Department funded and authorized activities to promote alternative development, recovery and resettlement of internally displaced persons, judicial reform, the peace process, and human rights. This report is to include summaries of activities undertaken during the previous 12-month period, estimated timetables for the next 12-month period, an explanation of any delays in meeting planned timetables, and an assessment of steps to be taken to correct such delays.

Section 694(b) states that it is the policy of the United States to encourage the transfer of counter-narcotics activities in Colombia now carried out by contracted U.S. businesses to Colombian nationals, "in particular personnel of the Colombian anti-narcotics police, when properly qualified personnel are available." It requires the Secretary of State to report, within 180 days of enactment and not later than April 1 of each year thereafter, on the counter-narcotics activities carried out by U.S. businesses under State or Defense Department contracts. The report must include the names of such businesses, the total State or Defense Department payments to each business, a statement justifying each agreement, an assessment of risks to personnel safety and potential involvement in hostilities incurred by employees of each such business, and a plan to provide for the transfer of these activities to Colombians, in particular personnel of the Colombian anti-narcotics police.

Section 695 requires the Secretary of State to submit, within 150 days of enactment, a report which sets forth a comprehensive strategy for United States activities in Colombia related to (1) the eradication of opium cultivation at its source in Colombia, and (2) the impact of Plan Colombia on Ecuador and the other adjacent countries to Colombia.

For more information, see CRS Report RL31383, *Andean Regional Initiative (ARI): FY2002 Supplemental and FY2003 Assistance for Colombia and Neighbors*, by K. Larry Storrs and Nina M. Serafino.

Drug Certification Procedures⁴

Under Sections 489-490 of the Foreign Assistance Act of 1961, as amended, the President was required from the mid-1980s to FY2002 to certify by March 1st that illicit drug producing and drug-transit countries are cooperating fully with the United States in counter-narcotics efforts in order to avoid a series of sanctions. If the President was unable to fully certify a country, or to determine that a less-than-fully-cooperative country should be given a certification in the national interest, certain sanctions would apply, including the withholding of most U.S. foreign assistance and sales financing, and U.S. opposition to loans for the country in the multilateral development banks. The sanctions would also apply if the Congress, within 30 calendar days, were to pass a

⁴ Prepared by K. Larry Storrs, Specialist in Latin American Affairs, Foreign Affairs, Defense, and Trade Division.

joint resolution of disapproval to overturn the presidential certification; however, the resolution would be subject to presidential veto. Congressional attention in this area often has focused on Mexico, and in many years resolutions to disapprove the certification of Mexico were introduced, but were never fully enacted.

Spokesmen from many countries complained about the unilateral and non-cooperative nature of the drug certification requirements, and urged the United States to end the process and to rely upon various multilateral methods of evaluation that have been developed. Mexico particularly expressed dissatisfaction with the process, even though it was regularly certified as being a fully cooperative country. Following the July 2000 election of opposition candidate Vicente Fox as President of Mexico, a number of legislative measures were introduced to modify the drug certification requirements, and these initiatives were mentioned when President Bush and President Fox met in Mexico in mid-February 2001, and in the United States in early September 2001.

S. 1401, the Foreign Relations Authorization for FY2002-FY2003, reported out by the Senate Foreign Relations Committee on September 4, 2001 (S.Rept. 107-60), contained proposed modifications to the drug certification procedures in Title VII, Subtitle D, Reform of Certification Procedures Applicable to Certain Drug Producing or Trafficking Countries. The provisions in Subtitle D are similar to provisions in S. 219, previously reported out by the Committee on April 5, 2001, that focused attention primarily on the worst offending countries subject to sanctions. Under the new procedures, the President would be required to identify by October 1 of each year major drug-transit or major illicit drug producing countries, and to designate each country that has “failed demonstrably,” during the previous 12 months, to make substantial efforts to adhere to its obligations under international counter-narcotics agreements (multilateral and bilateral) and other standards. U.S. assistance would be withheld from any designated countries unless the President determined that the provision of assistance was vital to the national interest of the United States or until the countries subsequently made substantial counter-narcotics efforts.

The House International Relations Committee reported out H.R. 1646 (Foreign Relations Authorization for FY2002-FY2003) on May 4, 2001, without any provisions on drug certification, and the measure was passed by the House on May 16, 2001. The Senate approved H.R. 1646 on May 1, 2002, after incorporating the text of a Senate measure on security assistance (S. 1803) approved in December 2001.

With congressional action on the Foreign Relations Authorization bills pending, the drug certification requirements were temporarily modified by enactment of the Foreign Operations Appropriations Act for FY2002 (H.R. 2506/P.L. 107-115). This measure waived the drug certification requirements for FY2002 and, using language similar to that in S. 1401, required the President to designate only countries which had demonstrably failed to meet international counter-narcotics obligations. In action on the Foreign Operations Appropriations for FY2003, the bill (S. 2779) reported by the Senate Appropriations Committee in July 2002 would extend through FY2003 the modifications of the U.S. drug certification requirements enacted last year, while the bill (H.R. 5410) reported by the House Appropriations Committee in September 2002 did not contain a similar provision.

Under the conference report on H.R. 1646, the Foreign Relations Authorization, (H.Rept. 107-671) filed on September 23, 2002, Section 706 of the bill deals with International Drug Control Certification Procedures. Drawing from S. 1401, the new procedures require the President to make a report, not later than September 15 of each year, identifying the major drug transit or major illicit drug producing countries. At the same time he is required to designate any of the named countries that has “failed demonstrably,” during the previous 12 months, to make substantial efforts to adhere to international counter-narcotics agreements (defined in the

legislation) and to take the counter-narcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961. U.S. assistance would be withheld from any designated countries unless the President determines that the provision of assistance to that country is vital to the national interest of the United States, or that the designated country subsequently made substantial counter-narcotics efforts. Another section clarifies that the requirement for the yearly International Narcotics Control Strategy Report (INCSR) detailing the performance of individual countries by March 1st of each year is retained.

Notwithstanding the general suspension of the previous drug certification and sanctions procedures, subsection 706(5)(B) of H.R. 1646 provides that the President may apply those procedures at his discretion. In keeping with this approach, the Joint Explanatory Statement of the Committee of Conference indicates that Managers believe that the President should direct U.S. Executive Directors in multilateral development banks to vote against loans for countries failing to qualify for assistance under either the old or the new procedures.

In short, Section 706 requires the President to designate and withhold assistance from the worst offending countries (those that have “failed demonstrably” to make substantial counter-narcotics efforts). It also permits the President to use his discretion to maintain a higher standard and to withhold assistance and apply other sanctions against countries that are failing to cooperate fully with the United States in counter-narcotics efforts whenever he determines that such actions would be helpful. A transition rule provides that for FY2003, the required report must be submitted at least 15 days before foreign assistance funds are obligated or expended.

The conference report on H.R. 1646 was approved by the House by voice vote on September 25, 2002, and was approved by the Senate by unanimous consent on September 26, 2002. It was signed into law (P.L. 107-228) on September 30, 2002.

For further information, see CRS Report RL30892, *Drug Certification Requirements and Proposed Congressional Modifications in 2001-2002*; CRS Report RL30950, *Drug Certification Procedures: A Comparison of Current Law to S. 219 and S. 1401 as Reported*; CRS Report 98-174, *Mexican Drug Certification Issues: Congressional Action, 1986-2002*; and CRS Issue Brief IB10070, *Mexico-U.S. Relations: Issues for the 107th Congress*, by K. Larry Storrs.

East Timor⁵

East Timor formally became independent on May 20, 2002. The United States established diplomatic relations with the new state and supports a continued United Nations presence in East Timor. However, the United States withdrew the handful of U.S. military personnel involved in the U.N.-sponsored peacekeeping force that remains in East Timor, led by Australia. (The U.S. contribution never amounted to more than 50 personnel.) This leaves 80 American police officers advising on the formation of East Timorese police. The Bush Administration has budgeted \$19 million in economic aid to East Timor for FY2003. The aid program supports East Timor’s coffee industry, the country’s main export. It also includes democracy support targeted at the judiciary, law enforcers, non-governmental groups, and the media. A U.S. military aid program will provide for East Timorese what the State Department describes as “a small International Military Education and Training (IMET) program.”

Title VI, Subtitle C, consists of “East Timor Transition to Independence Act of 2002.” The measure: 1) authorizes \$25 million in FY2003 for East Timor programs, 2) mandates the U.S. government use its voice to support multilateral economic and development assistance, 3) encourages the Broadcasting Board of Governors (BBG) to establish broadcasting programs in

⁵ Prepared by Larry Niksch, Asian Specialist, Foreign Affairs, Defense, and Trade Division.

appropriate languages for East Timor, and 4) requires a study on security assistance for East Timor.

East Timor has receded in U.S. priorities in policies toward Indonesia. The Bush Administration has pushed hard in Congress to secure a softening of congressional restrictions on U.S. contacts with the Indonesian military in the interests of cooperation against terrorism. These restrictions were placed in foreign operations appropriations in late 1999 in response to the Indonesian military's instigation of large-scale violence in East Timor following the August 1999 referendum vote for separation from Indonesia. The Administration has allocated \$50 million in training programs for the Indonesian police and military, and Indonesia likely will receive additional funds contained in appropriations for counter-terrorism training for foreign military organizations. Congress also has removed the restriction on Indonesian military participation in the IMET program.

For further information, see CRS Report RL30975, *East Timor Situation Report*.

Family Planning, Abortion Restrictions, and the Mexico City Policy⁶

House and Senate conferees did not raise international family planning issues during their deliberations, and the final bill contains no language related to this matter. Meanwhile, the Foreign Operations Appropriations FY2003 bill, as reported in the Senate (S. 2779) and the House (H.R. 5410), include several provisions related to population assistance, the Mexico City policy, and U.S. contributions to the U.N. Population Fund (UNFPA).

The debate over international family planning policy and abortion began nearly three decades ago when Congress added a provision to the Foreign Assistance Act of 1961 prohibiting the use of U.S. appropriated funds for abortion-related activities and coercive family planning programs. During the mid-1980s, in what has become known as the "Mexico City" policy (because it was first announced at the 1984 Mexico City Population Conference), the Reagan, and later the Bush, Administrations restricted funds for foreign non-governmental organizations (NGOs) that were involved in performing or promoting abortions in countries where they worked, even if such activities were undertaken with non-U.S. funds. President Clinton in 1993 reversed the position of his two predecessors.

During the past six years, the House and Senate have taken opposing positions on the Mexico City issue. For FY2000, however, Congress linked approval of U.N. arrears payments to White House acceptance of modified Mexico City restrictions. In order to remove the obstacles to U.N. arrears payments, President Clinton reluctantly agreed to the abortion restrictions, marking the first time that Mexico City conditions had been included in legislation signed by the President. Because the President could waive the restrictions up to a certain point, there was no major impact on USAID family planning programs in FY2000, other than the loss of \$12.5 million in population assistance that the legislation required if the White House exercised the waiver authority. For FY2002, Congress again came to an impasse over the international family issue and agreed to allow the new President to set policy early in 2001. Under the FY2001 Foreign Operations measure, none of the \$425 million appropriation could be obligated until after February 15, 2001.

Subsequently, on January 22, 2001, two days after taking office, President Bush issued a memorandum to the USAID Administrator reinstating in full all of the requirements of the

⁶ Prepared by Larry Nowels, Specialist in Foreign Affairs, Foreign Affairs, Defense, and Trade Division.

Mexico City Policy in effect on January 19, 1993. The President said that it was his “conviction that taxpayer funds should not be used to pay for abortions or advocate or actively promote abortion, either here or abroad.”⁷ A separate statement from the President’s press secretary said that President Bush was “committed to maintaining the \$425 million funding level” for population assistance “because he knows that one of the best ways to prevent abortion is by providing quality voluntary family planning services.” The press secretary further emphasized that it was the intent that any restrictions “do not limit organizations from treating injuries or illnesses caused by legal or illegal abortions, for example, post abortion care.”⁸ On February 15, the day on which FY2001 population aid funds became available for obligation, USAID issued specific policy language and contract clauses to implement the President’s directive. The guidelines are nearly identical to those used in the 1980s and early 1990s when the Mexico City policy applied.

Critics of the certification requirement oppose it on several grounds. Some argue that it will reduce quality health care for women in developing nations by denying U.S. funding to some of the most experienced and effective organizations. These critics further believe that family planning organizations that do remain eligible for U.S. aid will cut back on services because of uncertainty over the full implications of the restrictions and their desire not to risk losing access to USAID funding. Thus, opponents contend that the Mexico City policy may actually lead to more abortions overseas. Critics also believe the new conditions will undermine relations between the U.S. Government and foreign NGOs and multilateral groups, creating a situation where the United States challenges their right to decide how to spend their own money and imposes a so-called “gag” order on their ability to promote changes to abortion laws and regulations in developing nations. The latter, these critics note, would be unconstitutional if applied to American groups working in the United States. From an administrative standpoint, they say it increases USAID costs to manage family planning programs because of the additional paperwork and is likely to delay implementation of projects.

Supporters of the certification requirement argue that even though permanent law bans USAID funds from being used to perform or promote abortions, money is fungible; that organizations receiving American-taxpayer funding can simply use USAID resources for permitted activities while diverting money raised from other sources to perform abortions or lobby to change abortion laws and regulations. The certification process, they contend, stops the fungibility “loophole.” They further note that the Mexico City policy does not stop organizations from continuing their family planning operations overseas. It merely requires them to adhere to the conditions or to carry out their programs without U.S. Government support.

In the first several votes on the issue in 2001, the House International Relations Committee adopted (26-22) an amendment to H.R. 1646 by Representative Lee that would overturn the Mexico City policy. The Lee amendment, which incorporated the text of H.R. 755, would not subject foreign groups to different restrictions imposed on U.S. NGOs concerning the use of non-USAID funding for advocacy and lobbying activities. It further directed that foreign NGOs would not be ineligible for U.S. grants solely on the basis of health or medical services provided with non-USAID funding so long as these activities were not in violation of the laws of the country in which the groups operated and would not violate U.S. law if provided here. On May 16, however, the full House voted (218-210) to delete the Lee amendment from H.R. 1646. The Administration

⁷ White House. Memorandum for the Administrator of the United States Agency for International Development. January 22, 2001. Found at <http://www.whitehouse.gov/press/releases/20010123-5.html>.

⁸ White House. Restoration of the Mexico City Policy. January 22, 2001. Found at <http://www.whitehouse.gov/press/releases/20010123.html>.

had said President Bush would veto H.R. 1646 if the committee language on Mexico City policy remained in the bill.

The Senate Foreign Relations Committee did not address the international family planning issue when it marked up its version of the Foreign Relations Authorization bill on August 1. The Senate panel, however, on the same day reported favorably S. 367, legislation identical to H.R. 755 and the text added by the House International Relations Committee to H.R. 1646.

For more detail, see CRS Report RL30830, *International Family Planning: the Mexico City Policy*; and CRS Issue Brief IB96026, *Population Assistance and Foreign Policy Programs: Issues for Congress*.

Global Warming⁹

The global warming provisions that had been in both bills were dropped in conference, as the conferees sought to avoid an area of potential controversy.

Both H.R. 1646 (Section 745) and S. 1401 (Sec. 778) expressed a “Sense of Congress Relating to Global Warming.” The two bills contained a number of similar findings, including reviews of the scientific findings of the Inter-governmental Panel on Climate Change (IPCC) and threats to various ecological and agricultural systems, and the U.S. participation in the United Nations Framework Convention on Climate Change (UNFCCC). Both bills stated the sense of Congress that the United States should demonstrate international leadership in mitigating global warming threats by taking action to achieve reductions in greenhouse gas emissions, and by continuing to participate in international negotiations with the objective of completing the rules and guidelines for the Kyoto Protocol in a manner that is consistent with the interests of the United States and that ensures the environmental integrity of the protocol. The wording of the bills in these sections was not identical, and there were some items in each that are absent in the other, but they shared most of the same concepts such as the contribution of human activities to global climate change, and “the need for American business to know how governments worldwide will respond to the threat of global warming.”

The Kyoto Protocol, completed in 1997, and signed but not ratified by the United States, includes legally binding requirements for 38 industrialized nations to reduce their emissions of 6 greenhouse gases, including the predominant one, carbon dioxide, which is released by burning of fossil fuels and wood. Under this protocol, the U.S. reduction would be 7% below 1990 levels of emissions as an average over the period 2008-2012. Since this bill passed the House, President Bush has indicated that although it is his intention to remain engaged in the U.N. Framework Convention on Climate Change (UNFCCC) and related international negotiations, the United States rejects the Kyoto Protocol and will not participate in it. The U.S. Senate is on record in S.Res. 98, passed in 1997, rejecting a treaty that does not include developing countries or that would harm the U.S. economy—the two major objections to the Kyoto Protocol that President Bush has identified. Therefore, the provisions that state the United States should pursue the objective of “completing the rules and guidelines for the Kyoto Protocol....” could be interpreted as recommending a modification in the policy articulated by President Bush.

For additional information, see the CRS Issue Brief IB89005, *Global Climate Change*.

⁹ Prepared by Susan R. Fletcher, Senior Analyst in International Environmental Policy, Resources, Science and Industry Division.

HIV/AIDS¹⁰

P.L. 107-228 contains limited provisions on the HIV/AIDS pandemic affecting sub-Saharan Africa and other parts of the world. Both the House and Senate have dealt comprehensively with HIV/AIDS in another authorization bill, H.R. 2069. The House version of this bill, titled *The Global Access to HIV/AIDS Prevention, Awareness, Education, and Treatment Act of 2001*, passed on December 11, 2001. The Senate version, *The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002*, passed on July 12, 2002. The House-passed version of H.R. 1646 had included provisions on the coordination of U.S. international AIDS policy, but these were dropped in conference. AIDS policy coordination provisions are a major feature of both the House and Senate versions of H.R. 2069.

Section 112(1)(A) of P.L. 107-228 authorizes \$1 million under the State Department's Fulbright program for HIV/AIDS scholarships for New Century Scholars. These are foreign researchers and professionals who come to the United States to collaborate on issues of global significance.

Section 689 of P.L. 107-228 states the sense of the Congress that the United Nations be urged to adopt an HIV/AIDS mitigation strategy as a component of peacekeeping operations. In part, this provision reflects concern over the role of conflict in creating chaotic conditions, particularly in sub-Saharan Africa, that foster the spread of HIV. When peacekeeping operations are deployed, many argue, it is essential that they immediately launch programs to combat HIV/AIDS, which may already be affecting a significant portion of the population. This provision may also partly reflect the concern that peacekeepers could serve as vectors for the HIV virus. The United Nations Security Council held a debate on this topic on January 19, 2001, at the insistence of then-U.S. Representative to the United Nations, Richard Holbrooke. The representative of India, which has contributed troops to many peacekeeping operations, expressed resentment at the "imputation that peacekeepers are necessarily at risk or carriers of the disease," while others noted that many countries lack the resources to test for HIV infection.¹¹ A December 2001 General Accounting Office report found that the United Nations has taken a number of steps to reduce the spread of HIV during peacekeeping operations, but that several challenges remain.¹²

For further information, see CRS Issue Brief IB10050, *AIDS in Africa*.

Human Rights – Child Soldiers, Trafficking, Human Rights and Democracy Fund¹³

P.L. 107-228, as enacted, includes a number of provisions relating to human rights issues. Section 663 expresses the sense of Congress that the budget of the Bureau of Democracy, Human Rights, and Labor (DRL) should be substantially increased so that, beginning in FY2005 and thereafter, not less than 1% of amounts made available for the Department under the heading "Diplomatic and Consular Programs" should be made available for DRL salaries and expenses. It also calls for a role for DRL in assigning individuals to embassies as political officers with primary responsibility for monitoring human rights. The measure also requires the Secretary of State to submit within 180 days of enactment a report providing a plan showing how the Department would improve human rights policy integration. Section 664 establishes and authorizes \$21.5

¹⁰ Prepared by Ray Copson, Specialist in African Affairs, Foreign Affairs, Defense and Trade Division.

¹¹ Christopher S. Wren, "U.N. Council Addresses HIV/AIDS in Its Forces," *New York Times*, January 20, 2001.

¹² *United Nations Faces Challenges in Responding to the Impact of HIV/AIDS on Peacekeeping Operations*, GAO Report GAO-02-194, December 12, 2001.

¹³ Prepared by Vita Bite, Analyst in International Relations, Foreign Affairs, Defense, and Trade Division.

million for FY2003 for a Human Rights and Democracy Fund to be administered by the Assistant Secretary for Democracy, Human Rights, and Labor. The Fund is to support defenders of human rights, assist victims of human rights violations, respond to human rights emergencies, and promote and encourage the growth of democracy. Of the total dollars authorized for the Fund, \$1 million is to be for the Documentation Center of Cambodia and \$500,000 for the Father Kaiser Memorial Fund.

Section 665 expands the requirements for the annual country reports on human rights to include the extent to which the United States has taken, or will take, actions to encourage and end such practices for each country found to have extrajudicial killings, torture, or other serious violations of human rights. Section 683 requires the reports to include information on the compulsory recruitment and conscription of individuals under the age of 18 by the armed forces, paramilitaries, or other armed groups, as well as the participation of such individuals in such armed groups. Section 1212 requires an annual report by March 1 from the Secretary of State to Congress describing the involvement of any former IMET participant in human rights violations.

Section 682 amends the Trafficking Victims Protection Act to state that programs of assistance to foreign victims should, as much as possible, support local in-country non-governmental organizations providing protection and assistance to trafficking victims and their families, including for hotlines, protective shelters, service centers, legal, social, and other services, education and training, and for repatriation. It also authorizes \$10 million in FY2002 and \$15 million for FY2003 to provide assistance for victims of trafficking and violence in other countries.

IMET in Lebanon¹⁴

The House adopted an amendment (H.Amdt. 39) to the Foreign Relations Authorization Act, FY2002-2003 (H.R. 1646) on May 16, 2001, which dealt with U.S. military and economic assistance to Lebanon. The amendment passed the House by a vote of 216-210 and was incorporated into the bill as Sec. 1224: *Assistance to Lebanon*.

Section 1224 states that the President shall not provide \$10 million in economic assistance for the Government of Lebanon for FY2003 and all subsequent years unless the President certifies to the appropriate congressional committees that the armed forces of Lebanon had been deployed to the internationally recognized border between Lebanon and Israel and that the Government of Lebanon effectively asserted its authority in the area in which such forces have been deployed. Unless the President is able to certify that the Government of Lebanon has extended its control along the border, Section 1224 will delete \$10 million from the U.S. assistance programs to Lebanon. In recent fiscal years, IMET grants to Lebanon have amounted to \$600,000 per year. ESF funds for Lebanon have increased from \$12 million in FY1999 to an estimated \$35 million for FY2002. The President requested \$32 million for FY2003. The USAID mission in Lebanon currently divides ESF funds into three major program areas: reconstruction and expanded economic opportunity; increased effectiveness of selected institutions that support democracy; and improved environmental practices.

The provision to reduce assistance to Lebanon stems from the political and security vacuum that has existed in south Lebanon since Israel withdrew from its self-declared "security zone" on May 24, 2000. Although Lebanon deployed a small mixed force of army and police units to some of the formerly Israeli-occupied areas, it did not deploy any forces to the international border with Israel, in part because Lebanon claims that Israel has not withdrawn fully from Lebanese territory.

¹⁴ Prepared by Clyde Mark, Specialist in Middle Eastern Affairs, Foreign Affairs, Defense and Trade Division.

The area in question is called the Shabaa farms, occupied by Israel, and claimed by Lebanon and Syria to be Lebanese territory. Israel, supported by the United Nations, claims the Shabaa farms area is Syrian territory, and therefore not subject to Israeli withdrawal from Lebanon. Israel and Lebanon remain stalemated over the issue. (See CRS Report RL31078, *The Shib'a Farms Dispute and Its Implications*.) The Hizballah organization uses the absence of Lebanese troops to maintain a military presence near the international border with Israel and to initiate cross-border engagements with Israeli troops.

Supporters of Section 1224 in H.R. 1646 view the provisions to reduce assistance to Lebanon as a means of pressuring Lebanon to deploy its troops to the international border with Israel, thereby potentially filling the political and security vacuum in south Lebanon, reducing the influence of Hizballah, curbing its military operations against Israel, decreasing Syrian influence in Lebanon, and increasing regional security. Opponents of the provisions tend to argue that Syria exercises a great degree of influence over or controls Lebanese defense and foreign policy through its estimated 20,000-25,000 troops and intelligence agents stationed in the country. Many analysts believe that Syria, which is reported to support logistically and encourage ongoing Hizballah military operations against Israel, will not allow Lebanon to deploy its troops to the Israeli border until after an Israeli-Syrian bilateral peace treaty. Therefore, opponents of the provisions tend to view Lebanon's ability to fulfill the conditions for presidential certification as impractical and point to the potential damage to U.S.-Lebanese relations if these assistance programs are terminated.

For further information, see CRS Issue Brief IB89118, *Lebanon*, and CRS Report RS20634, *South Lebanon: Economic Reconstruction*.

Jerusalem – U.S. Embassy¹⁵

Section 214(a) of H.R. 1646 repeats the congressional position that the U.S. embassy in Israel should be moved from Tel Aviv to Jerusalem. P.L. 104-45, of November 8, 1995, set a May 31, 1999 deadline for moving the embassy, but also provided a Presidential waiver in Section 7 that Presidents Clinton and Bush exercised to delay the move. U.S. administrations have opposed the move because they believed the permanent status and control of the city should be decided through negotiations and not through unilateral action. Congress supports the Israeli contention that Jerusalem belongs solely to Israel.

Section 214(b) of H.R. 1646 mandates that the Jerusalem consulate be under the supervision of the U.S. Ambassador to Israel; Section 214(c) states that U.S. publications should name Jerusalem as the capital of Israel; and Section 214(d) allows U.S. citizens born in Jerusalem to list Israel as their birthplace. The three subsections reflect further congressional support for the current Israeli contention that Jerusalem is non-negotiable Israeli territory. The September 1993 Declaration of Principles that Israel signed stated that the status of Jerusalem would be negotiated. The United States has not recognized Israel's claim to all of Jerusalem.

For more background, see CRS Report RS20339, *Jerusalem: The U.S. Embassy and P.L. 104-45*.

State Department and International Broadcasting Issues¹⁶

In addition to providing the required authority for the State Department and related agencies to spend specified levels of appropriations (see **Table 1** for appropriation and authorization levels),

¹⁵ Clyde Mark, Specialist in Middle Eastern Affairs, Foreign Affairs, Defense, and Trade Division.

¹⁶ Prepared by Susan Epstein, Specialist in Foreign Policy and Trade, Foreign Affairs, Defense, and Trade Division.

H.R. 1646 and S. 1401 contained measures ranging from “right-sizing” American embassies, to allowing private funding for educational exchange programs, to promotion of minority hiring in the Department of State, to funding for a Middle East Radio Network (MERN) of Voice of America (VOA). Following are selected issues in the authorization legislation regarding the Department of State, its personnel and programs, and international broadcasting.

Deputy Secretary of State for Management

Expressing concern for the multi-layered management and perceived inadequate attention to management issues at the Department of State, Congress **required** within the State Department FY2001 Appropriations Act (Section 404, P.L. 106-553) the creation of a new Deputy Secretary of State for Management and Resources position. Section 303, S. 1401 would eliminate the provision. The Senate Committee expressed full confidence in Secretary of State Powell and Deputy Secretary Armitage to carry out the Department’s management functions without the creation of a new position. This provision was not in the conference report or the law as signed by President Bush. While the provision that the President “shall appoint a Deputy Secretary of State for Management” was passed by Congress in the FY2001 appropriation, State Department, to date, does not have a Deputy Secretary of State for Management.

Right-Sizing Overseas Posts

In the late 1990s, two different reports recommended “right-sizing” American overseas posts.¹⁷ The idea of maintaining an appropriate level of staff and expertise at each overseas post that reflects the needs and importance of that post to U.S. foreign policy could reduce program and security expenditures and improve U.S. effectiveness overseas. For example, in the past, some have criticized the large U.S. embassies in European countries, while some posts in Asian or Middle East countries of arguably greater strategic concern are much smaller with less expertise for the needs of that region.

Section 302 of H.R. 1646, as enacted in the final law, requires that the Secretary of State establish a task force on right-sizing overseas posts. A preliminary report within 120 days of enactment of this legislation would be required to be submitted to the appropriate congressional committees. The report is to include the status, plans, and activities of the task force and must include: 1) the objectives of the task force; 2) measures for achieving the objectives; 3) the official of the Department with primary responsibility for the issue of “right-sizing”; and 4) the plans of the State Department for relocation of staff and resources based on changing needs at overseas posts and in Washington, D.C. The Secretary must submit task force progress reports to congress every six months throughout 2003.

An interagency working group would also be established to draw up plans for “right-sizing” U.S. overseas presence. This working group would have the same reporting requirements and schedule as the task force.

Section 302 of S. 1401 also contained “rightsizing” language. It required the Department to establish both an internal and an interagency task force to review issues of overseas presence rightsizing overseas posts and report on their findings.

¹⁷ *America’s Overseas Presence in the 21st Century*, by the Overseas Presence Advisory Panel, November 1999 (sometimes referred to as the Kaden report, as it was chaired by Lewis Kaden, a partner of Davis, Polk & Wardwell law firm); and *Equipped for the Future, Managing the U.S. Foreign Affairs in the 21st Century*, by the Project on the Advocacy of U.S. Interests Abroad, October 1998.

Consular Activities

The State Department, within its FY2002 budget requested that machine readable visa fees become a permanent appropriation for State. In FY2000 the fees amounted to an allocation of \$327.9 million for State's budget. In FY2001 the estimate allocation is \$395.1 million. The FY2002 estimate is \$478.9 million and the FY2003 request is for \$642.7 million.

Section 231, H.R. 1646 would authorize these offsetting collection fees for the Department through FY2003, setting the FY2002 allocation at \$414 million and FY2003 at \$422 million.

Section 231, S. 1401 authorizes allocation of machine readable visa fees for FY2003.

The enacted law authorizes machine readable visa fees for State, but caps them at \$460 million for FY2003.

Minority Recruitment at State

For years, the Department of State has received criticism regarding the under representation of minorities on its staff, particularly in the Foreign Service. In 1980 Congress required the Secretary of State to establish a minority recruitment program for the Foreign Service and report on minority recruitment activities to Congress annually.¹⁸ Some Members of Congress continued to express concern regarding State Department minority recruitment and hiring activities and Congress required the Secretary of State to report on these activities and progress in 1998 and 1999.¹⁹ Within the Commerce, Justice, State, and Related Agencies Appropriations for FY2001 (P.L. 106-553) Congress provided \$1 million to establish a partnership with specified colleges for promoting minority hiring. Secretary Of State Powell has supported increasing minority hiring saying, "America overseas should look like America at home."

Section 101(B)(iii) of H.R. 1646 provided \$2 million in FY2003 for minority recruitment. Section 342 required the Secretary of State to report to Congress presenting the numbers and percentages of minorities who, 1) take the Foreign Service exam, 2) are hired for Foreign Service positions, at each FS grade, and 3) are hired for Civil Service positions. Section 343 required the Secretary to establish a database to report on minority recruitment efforts over time. S. 1401 did not contain minority hiring provisions.

Section 111 (a) (1) of P.L. 107-228 contains the House measure of \$2 million earmarked for minority hiring. Section 324 requires the Administration to report on minority recruitment in both the Civil and Foreign Service. Section 325 requires the State Department to expand its recruitment to 25% of historically Black colleges and to 25% of Hispanic-serving institutions. This section also requires the Secretary of State to establish a database reflecting and evaluating efforts to recruit minorities into the Department.

Private Funding for Exchanges

Secretary of State Colin Powell stated in his April 26, 2001 testimony before the House Commerce, Justice, State and Judiciary Appropriations subcommittee, "I believe cultural exchanges are an essential component of a successful foreign policy, particularly for nations like Russia which are just now learning how to become democracies."

Section 225 of S. 1401, and also in the final enacted law, authorizes \$500,000 in each FY2002 and FY2003 for *American Corners* in the Russian Federation. This program would provide

¹⁸ The Foreign Service Act of 1980 (P.L. 96-465), Section 105(d) and Section 1201.

¹⁹ Foreign Relations Authorization Act (P.L. 105-277).

information about U.S. history, government, culture, and values to host libraries in the Russian Federation. The measure includes access to computers and the Internet. The House bill had no similar provision.

H.R. 1646 listed a number of findings, including that funding for international educational and cultural exchanges had declined in recent years, and that the U.S. private sector should be encouraged to assist. Section 402 authorizes the Secretary of State to establish private, nonprofit, nongovernmental organizations to encourage participation and financial support from U.S. corporations and other private sector entities for international cultural, arts, and educational exchanges. The Secretary is authorized to solicit funds, designate a program to receive the funds, appoint members of a board of directors to administer the private entity, and make recommendations for specific programs to be the focus of the entity. This section also would provide \$500,000 for FY2003 for administrative costs of such private, nonprofit entities. Each entity established under this provision would be required to report annually to Congress on its funding and activities; its financial transactions would be subject to an independent audit. These measures were not enacted.

Section 223 of S. 1401 would establish an advisory committee on cultural diplomacy to devise initiatives to expand public diplomacy with public-private partnerships. The final law includes Section 224 which provides the Senate language for a temporary advisory committee to explore public-private relationships in funding expanded public diplomacy activities in the future.

International Broadcasting in the Middle East

P.L. 107-228 authorizes, in addition to the \$485.8 million for international broadcasting operations, \$20 million for FY2003 for Middle East Radio Network of VOA. The House bill had provided \$15 million and the Senate Foreign Relations Committee also had provided “additional” funds within its total broadcast funding level for the Middle East Radio Network.

Even prior to the September 11, 2001 attack, both Congress and the Broadcasting Board of Governors had shown increasing interests in broadcasting to the Middle East. In P.L. 105-277 Congress authorized Radio Free Iran and Radio Free Iraq. In 2001 VOA set aside about \$6 million for Arabic programming. After September 11th, Congress provided \$12.25 million in supplemental funding to support VOA broadcasts in Arabic, Farsi, Pashto, Dari, and Urdu and to support RFE/RL broadcasts in Arabic, Farsi, Tajik, Turkmen, Uzbek, Kazakh, Krygyz, and Azeri. In addition, Congress provided authority for the Administration to establish a new Radio Free Afghanistan (P.L. 107-148).

For more detail on the Department of State and related agency appropriations, see CRS Report RL31370, *State Department and Related Agencies FY2003 Appropriations*.

U.N. Issues²⁰

As enacted, P.L. 107-228 authorized appropriations for FY2003 for U.S. contributions to international organizations including \$891.378 million for U.S. assessed contributions to international organizations, and \$ 725.98 million for assessed peacekeeping. The measure amended the 25% cap on the U.S. share of U.N. peacekeeping contributions for calendar years 2001-2004. It called on the United States to move toward making payment of its assessments at the beginning of each calendar year. The measure supported retention of the 25% U.S. assessment

²⁰ Prepared by Vita Bite, Analyst in International Relations, Foreign Affairs, Defense, and Trade Division.

for the regular budget of the International Atomic Energy Agency (IAEA), but amended the U.N. Participation Act of 1945 to cap the U.S. share of assessments for the U.N. regular budget at 22%.

UNESCO

On September 12, 2002 President Bush announced that the United States would return to the United Nations Educational, Scientific and Cultural Organization (UNESCO). Renewed U.S. participation is expected to begin in FY2004. P.L. 107-228 expressed the sense of Congress that the President should submit to Congress a report on the merits of U.S. return to UNESCO and giving details of the costs.

H.R. 1646, as passed by the House, had authorized appropriations for U.S. contributions to international organizations including (section 104) \$944.067 million for U.S. assessed contributions to international organizations, (section 105) \$844.139 million for assessed peacekeeping operations, (section 107) \$186 million for voluntary contributions to international organizations plus an additional \$120 million for UNICEF for FY2002 and such sums as may be necessary for these organizations for FY2003. The House had funded international organizations at the level requested by the Bush Administration, adding \$10 million more for UNICEF and including \$59.8 million in each of FY2003 to cover the U.S. return to UNESCO.

Representative Leach had sponsored a House International Relations Committee amendment authorizing funding to allow the United States to return to UNESCO. This amendment had been adopted by the Committee on a vote of 23 to 14. The Committee report (H.Rept. 107-57) included the views of thirteen members who opposed rejoining UNESCO and urged the House to reconsider the Committee recommendation. During floor debate Representative Tancredo had sponsored an amendment to strike the provisions authorizing funding for UNESCO which he described as an organization in search of a mission. He pointed out that currently the U.S. contributes \$2-3 million annually to UNESCO in voluntary contributions to cover projects the U.S. believes to be worthwhile. If the United States rejoins, it would be obliged to fund “the good and the bad alike.” Representative Leach opposed the amendment arguing that UNESCO had reformed – that it was a credible international body. The amendment was rejected by a vote of 193 to 225.

For additional information on UNESCO see CRS Report RL30985, *UNESCO Membership: Issues for Congress*.

U.N. Arrears

Section 401 of P.L. 107-228 amended several conditions that must be certified by the Secretary of State in order to release the third and final installment (\$244 million) of U.S. arrears to the United Nations and other international organizations, as provided under the Helms-Biden agreement. The measure allows arrears payments to each international organization upon certification of the conditions established for that agency or immediately if no conditions applied.

Conferees on H.R. 1646 reportedly had agreed on a plan to pay the third and final installment (\$244 million) of U.S. arrears to international organizations. In its version of H.R. 1646, the House also had amended the conditions (Helms-Biden agreement) for release of the second and third installment of U.S. arrears to international organizations. The House increased the maximum level for the U.S. peacekeeping assessment (to 28.15% from 25%). In the meanwhile, free standing legislation, P.L. 107-46 (S. 248) was enacted raising the maximum peacekeeping assessment level to 28.15%. This allowed payment of the second installment (\$582 million) of U.S. arrears. H.R. 1646 as passed by the House also had placed additional conditions on release of the third and final installment of U.S. arrears (\$244 million):

- the Secretary of State must certify that the United States has regained a seat on the U.N. Commission on Human Rights;
- the Secretary has made a determination or issued an analysis on voting by secret ballot in the United Nations and its specialized agencies;
- and the General Accounting Office (GAO) has to submit to Congress a detailed accounting of U.S. contributions to U.N. peacekeeping operations from 1990 through 2001.

For additional information on U.N. arrears, see CRS Issue Brief IB86116, *U.N. System Funding: Congressional Issues*.

Key Issues—Security Assistance Act of 2002

P.L. 107-228 contains, in Division B, the text of the Security Assistance Act of 2002, which was originally introduced in the Senate as S. 1803. S. 1803 was a relatively short bill that was subsequently incorporated into H.R. 1646 when it was passed by the Senate and sent to a conference committee with the House. Division B of H.R. 1646, as enacted, is comprised of seven sections: general provisions (Title X); Verification of Arms Control and Nonproliferation Agreements (Title XI); Military and Related Assistance (Title XII); Nonproliferation and Export Control Assistance (Title XIII); Expediting the Munitions Licensing Process (Title XIV), National Security Assistance strategy (Title XV); Miscellaneous Provisions (Title XVI); and Authority to Transfer Naval Vessels (Title XVII). The major components of the Security Assistance Act are analyzed below.

Military Assistance and Arms Export Control Provisions ²¹

Title XII of P.L. 107-228 authorizes appropriations for a number of security assistance programs, including Foreign Military Sales and Financing and International Military Education and Training. Several technical changes to existing legislation are detailed, as well as provisions for establishing or modifying reporting and policy requirements relating to Excess Defense Articles, small arms and light weapons license approvals, and arms sales under the Arms Export Control Act. Authorization for transferring specific naval vessels is found in Title XVII, while Title XIV provides funding authorization and policy guidance aimed at expediting the munitions licensing process. (For funding levels authorized for military assistance programs through this bill see CRS Report RL31311, *Appropriations for FY2003: Foreign Operations, Export Financing, and Related Programs*.)

Nonproliferation and Export Control Assistance ²²

In keeping with growing concern about the potential for weapons of mass destruction or their ingredients falling into terrorist hands, the Security Assistance Act provides greater financial support for export control assistance and for the International Atomic Energy Agency. Subtitle A includes general provisions that represent an amalgamation of House and Senate provisions. From the House, technical amendments such as Sec. 1306 to amend the *Iran Nonproliferation Act of 2000* and Sec. 1307 to amend the *North Korea Threat Reduction Act of 1999*, as well as reporting requirements (Sec. 1308, which consolidates four existing reporting requirements into one annual report on the proliferation of missiles and nuclear, biological and chemical weapons,

²¹ Prepared by Richard Grimmett, Specialist in National Defense, Foreign Affairs, Defense, and Trade Division.

²² Prepared by Sharon Squassoni, Specialist in National Defense, Foreign Affairs, Defense, and Trade Division.

and Sec. 1309, which calls for the Secretary of State to report on a three-year international arms control and nonproliferation strategy) were included in Subtitle A under Title XIII of H.R. 1646, as enacted. The Senate Security Assistance Act (S. 1803) did not contain any of these provisions. In addition, the House initially passed a provision for counterproliferation education and training, which became Sec. 1303 on international nonproliferation and export control training. This section authorizes provision of weapons of mass destruction detection equipment for other countries' export control services. P.L. 107-228 incorporates a provision initially sponsored by the Senate to provide an additional \$10 million for the IAEA's program to secure orphaned radioactive sources from theft.

Subtitles B and C, which cover the Russian Federation Debt Reduction for Nonproliferation and Nonproliferation Assistance Coordination, were Senate initiatives that did not appear in the House version of H.R. 1646. Subtitle D, Iran Nuclear Proliferation Prevention Act of 2002, was a House initiative.

Russian Debt-Swap for Nonproliferation

Known as the *Russian Federation Debt for Nonproliferation Act of 2002*, this "debt swap" program seeks to use a portion of the Russian Federation's foreign debt to fund nonproliferation programs and ensure that the resources made available to the Russian Federation are targeted to achieving nonproliferation objectives. The program is intended to provide a new stream of funding for these purposes. The bill authorizes the President to enter into a "Russian Federation Nonproliferation Investment Agreement." Such an agreement shall ensure that a) the value of the debt reduced will be made available for agreed nonproliferation programs and projects; b) each program or project will be approved by the President; c) administration and oversight will incorporate best practices from established threat reduction and nonproliferation assistance programs; d) audits are conducted; e) unobligated funds are not diverted; e) funds for projects are not taxed by the Russian Federation; f) intellectual property rights issues are addressed before funds are expended; and g) not less than 75 percent of the funds are spent in the Russian Federation itself. The bill has provisions for spending funds on a "Center for Independent Press and the Rule of Law" and for an annual certification by the President to Congress that Russia has made "material progress" in reducing proliferation. First introduced by Senator Biden in S. 1803 in late 2001, a similar measure with the same objectives, H.R. 3836, was introduced in the House by Rep. Ellen Tauscher on March 4, 2002 and referred to the House International Relations Committee. (See CRS Report RL30617, *Russia's Paris Club Debt and U.S. Interests*, by John P. Hardt.)

Iran Nuclear Proliferation Prevention Act of 2002 ²³

The Iran Nuclear Proliferation Prevention Act of 2002 is virtually identical to a bill introduced in the 106th Congress, H.R. 1477, which passed the House by a vote of 383-1 but did not receive Senate floor action. A similar bill, H.R. 3743, passed the House in the 105th Congress, by a vote of 405-13, and did not receive any Senate action. The legislation seeks to prohibit the use of U.S. voluntary contributions to the IAEA's Technical Cooperation Fund for use in Iran. The vehicle for this is an amendment to Section 307 of the Foreign Assistance Act. Although Iran and several other state sponsors of terrorism cannot receive U.S. funds through international organizations under Section 307 (c), the IAEA and UNICEF are exempt from those restrictions. The amendment would allow the restriction to apply if the Secretary of State determines that IAEA programs in Iran are inconsistent with U.S. nuclear nonproliferation or safety goals or provide

²³ Prepared by Ken Katzman, Specialist in Middle Eastern Affairs, Foreign Affairs, Defense, and Trade Division.

Iran with proliferation-relevant training or are used as a cover for proliferation activities. The bill requires the Secretary of State to assess IAEA projects for their consistency with U.S. nuclear nonproliferation and safety goals and conduct an annual review of all IAEA programs. Section 1344 requires the Secretary of State to submit a detailed report to Congress each year for 5 years on Iran's Bushehr reactor project and IAEA technical assistance to Iran. In a separate provision (Section 1306), the Security Assistance Act amends the Iran Nonproliferation Act of 2000 by specifying in greater detail the content of the reports to the Congress that are required under that act. It also makes clear a person is not exempt from sanctions if he/she only transfers conventional weapons (rather than weapons of mass destruction).

Between 1995 and 1999, the IAEA's Technical Cooperation Fund provided over \$1.5 million in technical assistance to Iran's civilian nuclear power program, including a reactor being built by Russia near the Iranian port city of Bushehr. Most of that assistance is nuclear safety training. IAEA assistance programs on the Bushehr reactor date as far back as 1985. U.S. voluntary contributions (approximately \$18 million in 2002) provide almost 27% of the Technical Cooperation Fund. U.S. assessed contributions to the IAEA, which would not be affected by the legislation, provide about 25% of the total annual IAEA budget. There is a precedent of the U.S. withholding its share of funding for projects in Cuba for the past several years.

Members and outside experts who support the legislation maintain that a cut in U.S. voluntary contributions would not prevent the IAEA from continuing work in Iran, but that U.S. funds should not be devoted to a nuclear project the United States fundamentally opposes. An alternate view is that reducing U.S. contributions would limit U.S. influence over IAEA assistance to the Bushehr project, an Iranian civilian nuclear power project at the city of Bushehr, Iran. According to critics, this could hinder the U.S. ability to monitor the Bushehr project to ensure it is not serving any nuclear weapons program. Others believe that the United States should support IAEA assistance to the Bushehr project because the IAEA will contribute to its safe operation and because Iran, according to the IAEA, is abiding by its commitments as a party to the Nuclear Nonproliferation Treaty and therefore qualifies for assistance. Supporters of the legislation note that it provides for a waiver of the contribution reduction if the conditions sought by both advocates and opponents are met. (For further reading, see CRS Report RL30551, *Iran: Arms and Technology Acquisitions*.)

Nuclear and missile proliferation in South Asia

Although South Asia is now a military theater of operations in the war on terrorism and the United States is building new, cooperative relations with both India and Pakistan, the risk that this region will contribute to the proliferation, or even the use, of nuclear weapons has not declined. In their joint explanatory statement, conference managers (H.Rept. 107-671) noted their intent that the executive branch maintain a high priority for these concerns while ensuring that U.S. policy and actions on nuclear issues in South Asia are consistent with U.S. obligations under the Treaty on the Nonproliferation of Nuclear Weapons and with past U.S. policy. Section 1601 of Title XVI of P.L. 107-228 outlines nonproliferation objectives to be achieved with respect to nuclear testing, nuclear weapons and ballistic missile deployments and developments, export controls and confidence-building measures. In addition, the section states that it shall be the policy of the United States consistent with its NPT obligations, to encourage, and where appropriate, work with the governments of India and Pakistan to achieve not later than September 30, 2003, the establishment of "modern, effective systems to protect and secure nuclear devices and materiel from unauthorized use, accidental employment, or theft." The conferees noted that "any such dialogue with India or Pakistan would not be represented or considered, nor would it be intended, as granting any recognition to India or Pakistan, as appropriate, as a nuclear weapon

state. The section requires the President to submit a report to Congress no later than March 1, 2003, on U.S. efforts to achieve the objectives and likelihood of success by September 2003. These provisions appeared in S. 1803 and are described additionally in S.Rept. 107-122; H.R. 1646 as passed by the House contained no provisions related to nuclear and missile proliferation in South Asia. (See CRS Report 31589, *Nuclear Threat Reduction Measures for India and Pakistan*.)

Appendix

State Department Authorization History

Authorization of State Department appropriations are required by law every two years. Typically, the authorization is passed in the first year of a new Congress for the following even/odd year authority.

FY1973–P.L. 93-126

FY1975–P.L. 93-475

FY1977–P.L. 94-350

FY1978–P.L. 95-105

FY1979–P.L. 95-426

FY1984-1985–P.L. 98-164

FY1986-87–P.L. 99-93

FY1988-89–P.L. 100-204

FY1990-91–P.L. 101-246

FY1992-93–P.L. 102-138

FY1994-95–P.L. 103-236

Government shutdown–Nov. 1995–Jan. 1996

FY1996–P.L. 104-134, Sec. 405 (appropriations legislation)

FY1997–P.L. 104-208, Sec. 404 (appropriations legislation)

FY1998-99–State Dept authorization was passed in the omnibus appropriations bill, Nov. 1998–P.L. 105-277

FY2000-2001–P.L. 106-113, (H.R. 3427), appendix G of consolidated appropriations Act/D.C. appropriations legislation

FY2002–authorization requirement waived for FY2002 in CJS appropriations Act. (Section 405, P.L. 107-77, signed Nov. 28, 2001)

FY2003–P.L. 107-228, authorization for FY2003, signed September 30, 2002.

Table I. State Department and Related Agencies Appropriations and Proposed Authorizations

(millions of dollars)

	Approp. FY1998 Enacted	Approp FY1999 Enacted	Approp. FY2000 Enacted	Approp. FY2001 Enacted	Approp. FY2002 Enacted*	Auth. House H.R. 1646	Auth. Senate S. 1401	Auth. P.L. 107-228
State Department								
Diplomatic & Consular Program	1,730.0	1,661.6	2,823.8	3,167.2	3,630.1	3,705.1	4,103.2	4,103.0
Salaries and expenses	363.5	354.2	--	--	--	--	--	--
Worldwide Security Upgrades			(254.0)	(409.1)	(487.7)	(487.7)	(564.0)	(564.0)
Democracy, Human Rights and Labor	--	--	--	--	--	(16.0)	--	(20.0)
Minority recruitment	--	--	--	--	--	(2.0)	--	(2.0)
Ed & cultural exchange prog. (USIA)	197.7	200.5	204.2	231.6	237.0	242.0	286.0	260.0
Fulbright Academic Exchange	(101.9)	(107.4)	(109.4)	(123.4)	(118.0)	(125.0)	--	(135.0)
Office of Inspector General	27.5	28.5	27.4	28.4	29.0	29.3	30.4	30.8
Representation allowances	4.2	4.4	5.8	6.5	6.5	9.0	9.5	9.0
Protec.-missions & officials	7.9	8.1	8.1	15.4	9.4	10.0	10.5	11.0
Embassy security/constr/maintenance	397.9	1,081.1	739.4	1,077.6	1,274.0	**900.0	**1,000.0	900.0
Worldwide security upgrades	--	(785.7)	(313.6)	(661.2)	(816.0)	475.0	522.6	555.0
Emergency-diplo. & consular services	5.5	17.5	5.5	5.5	6.5	15.5	16.3	15.0
Repatriation loans	1.2	1.2	1.2	1.2	1.2	1.2	1.3	1.3
Payment American Inst. Taiwan	14.0	14.8	15.3	16.3	17.0	17.0	17.9	18.8
Foreign Service Retirement Fund	129.9	132.5	128.5	131.2	135.6	--	--	--
Capitol Investment Fund	86.0	158.6	79.7	96.8	203.0	210.0	231.0	200.0
International Organ. & Conf.								
Contributions to international organizations	955.5	933.6	880.5	868.9	850.0	944.1	913.9	891.4

	Approp. FY1998 Enacted	Approp FY1999 Enacted	Approp. FY2000 Enacted	Approp. FY2001 Enacted	Approp. FY2002 Enacted*	Auth. House H.R. 1646	Auth. Senate S. 1401	Auth. P.L. 107-228
Contributions to international peacekeeping	256.0	219.4	498.1	844.1	844.1	844.1	844.1	726.0
U.N. Arrearage payments		475.0	351.0	--	--	--	--	--
Total International Commissions	44.0	45.8	48.7	56.1	60.5	61.3	64.2	66.4
Related Appropriations								
The Asia Foundation	8.0	8.3	8.2	9.2	9.3	15.0	15.0	15.0
National Endowment for Democracy	30.0	31.0	30.9	30.9	33.5	36.0	40.0	42.0
Reagan-Fascell Democracy Fellow						1.0	--	(1.0)
East-West Center	12.0	12.5	12.5	13.5	14.0	13.5	15.0	15.0
North-South Center	1.5	1.8	1.8	--	--	4.0	--	2.5
Eisenhower Exchange	0.6	0.5	0.5	0.5	0.5	--	--	--
Israeli Arab Scholarship	0.4	0.4	0.3	0.3	0.4	0.8	--	0.5
Refugees	650.0	640.0	625.0	698.5	705.0	815.0	750.8	820.0
Total State Department	4,923.3	6,031.3	6,496.4	7,299.7	8,066.6	8,348.9	8,871.7	8,609.2
International Broadcasting								
Capital Improvements	40.0	13.2	11.3	--	25.9	16.9	--	13.7
Broadcasting Operations	391.5	362.4	388.4	--	428.2	428.2	--	485.8
Broadcasting to Cuba	(22.1)	22.1	22.1	--	24.9	25.0	--	25.9
Radio Free Asia	(25.0)	--	--	--	--	(30.0)	--	--
Middle East Broadcasting						15.0	--	20.0
Total International Broadcasting	431.5	397.7	420.2	450.4	479.0	485.1	506.7	545.4
TOTAL State & Broadcasting	5,354.8	6,429.0	6,916.6	7,750.1	8,545.6	8,834.0	9,378.4	9,154.6

*FY2002 enacted numbers do not include funds provided in the Emergency Supplemental Appropriation Act (P.L. 107-38).

**Authorized up to \$900 million by P.L. 106-113 through FY2004.

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